



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/235,084	01/21/1999	ALAN WALBECK	INTELOG.003A	5205

20995 7590 12/05/2001

Knobbe Martens Olson & Bear LLP
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660

EXAMINER

DINH, KHANH Q

ART UNIT	PAPER NUMBER
----------	--------------

2155

DATE MAILED: 12/05/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

HG

Office Action Summary

Application No.
09/235,084

Applicant(s)
Walbeck et al

Examiner
Dinh Khanh

Art Unit
2155



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 16, 2000
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above, claim(s) 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 19-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 20) ☐ Other:

Art Unit: 2155

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-16 and 19-33, drawn to a gateway configured to allow multiple nodes on a computer network to communicate using one or more data protocols, classified in **class 709, subclass 230**.
 - II. Claims 17 and 18, drawn to method of routing raw data using dispatching control blocks, classified in **class 709, subclass 225**.
2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as system and method of a gateway configured to allow multiple nodes on a computer network to communicate using one or more data protocols, classified in a *different Class/Subclass*. Invention II has separate utility such as routing raw data using dispatching control blocks, classified in a *different Class/Subclass*.
3. The inventions are distinct, each from the other, because of the following reasons:
 - (a) These inventions have acquired a separate status in the art as shown by their different classifications.

Art Unit: 2155

(b) The search required for each Group is different and not co-extensive for examination purposes.

For example, the searches for the two inventions would not be co-extensive because these Groups would require different searches on PTO's classification class and subclass as following:

the Group I search (claims 1-16 and 19-33) would require use of search **Class 709, subclass 230** (not require for the inventions II).

the Group II search (claims 17 and 18) would require use of search **Class 709, subclass 225** (not require for the inventions I).

For the reasons given above restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. Lee Henderson (Registration number 41,830) on 11/29/2001 a provisional election was made without traverse to prosecute the invention of GROUP II, claims 1-16 and 19-33. Affirmation of this election must be made by applicant in responding to this Office action. Claims 17 and 18 are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Art Unit: 2155

Art Rejection

6. Claims 1-16 and 19-33 are presented for examination.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 1-7, 9, 10, 13, 14, 19-25, 27, 28, 31 and 33 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Arendt et al US pat. No.6,314,526.

As to claim 1, Arendt discloses an internal node (104 fig.1) database comprising information about nodes on a network (see abstract, fig.1, figs. 2A-2H, col.3 line 60 to col.5 line 24), a software module (i.e., software allowing resources to be shared system wide, col.1 lines 24-55) configured to provide an active mode and a standby mode, said active mode configured to maintain a said internal node database and to provide access to said node database, said standby mode configured to maintain said internal node database as a mirror copy (i.e., replicated resource) of an external node database (see figs. 2A-2H, col.5 line 9 to col.7 line 40).

Art Unit: 2155

As to claims 2, Arendt discloses internal node database further comprising rules that specify actions to be taken upon a state change of a client node (see col.5 line 9-56).

As to claims 3 and 4, Arendt discloses rules are simple and complex rules (see col.5 line 9 to col.6 line 47).

As to claims 5-7, Arendt discloses a rules engine configured to interpret rules, shims configured to translate rules into a rule definition language and a change in an instance variable of the client node (see col.5 line 9 to col.6 line 47 and col.7 lines 6-65).

As to claims 9 and 10, Arendt discloses transitioning to said active mode when an unacknowledged client request is detected and configured to tunnel a first protocol through a second protocol (see col.2 lines 1-52, col.5 line 7 to col.6 line 47 and col.9 line 5 to col.10 line 65).

As to claim 13 and 14, Arendt discloses an event handler configured to notify a user application when a change occurs in an instance variable of said client node (see col.2 lines 1-52, col.5 line 7 to col.6 line 47 and col.9 line 5 to col.10 line 65).

Art Unit: 2155

As to claims 16 and 33, Adrent discloses user interface is configured to allow a user to control nodes on a power line network (see col.3 line 9 to col.5 line 60).

As to claim 19, Adrent discloses:

creating a node database containing information about said nodes (see fig.1, col.3 line 9 to col.5 line 60), designating an active gateway node to maintain said node database, said active gateway node providing one or more access methods to access said node database (see col.6 line 25 to col.7 line 51), and mirroring said node database in one or more standby server nodes (see figs. 2A-2H, col.5 line 9 to col.7 line 40).

Claim 20, 21 are rejected for the same reasons set forth in claims 2 and 5 respectively.

As to claims 22 and 23, Arendt discloses generating event notifications when said state change occurs provided to a dispatcher (see fig.3, col.10 line 12 to col.11 line 6).

Claims 24 and 25 are rejected for the same reasons set forth in claims 6 and 7 respectively.

As to claim 27, Arendt discloses activating one of said standby server nodes after said active server becomes inactive (i.e., offline, see col.9 line 24 to col.11 line 6).

Art Unit: 2155

As to claim 28, Arendt discloses encapsulating raw packets in a first protocol into wrapper packets in said desired protocol and tunneling said raw packets through said desired protocol (see col.2 lines 1-52 and col.9 line 5 to col.10 line 65).

Claim 31 is rejected for the same reasons set forth in claim 13.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 8, 11, 12, 15, 26, 29, 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arendt US pat. No.6,314,526.

As to claims 8, 11, 12, 15, Arendt does not specifically disclose the use of ping requests, power line protocol, PLX protocol and an internet browser. However, the use of such protocol and interface is generally well-known in the art. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement well-known teachings into the system of Arendt to process and control data processing systems because it would have controlled data processing systems more quickly.

Art Unit: 2155

Claim 26 is rejected for the same reasons set forth in claim 8. As to the added limitation, Arendt discloses listening for responses to said requests, said responses used to update said node database (see col.10 line 12 to col.11 line 6).

Claims 29, 30 and 32 are rejected for the same reasons set forth in claims 11, 12, 15 respectively.

Other prior art cited

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Biliris et al., US pat. No.5,966,706.
- b. Drapper et al., US pat. No.6,192,365.

Conclusion

12. Claims 1-16, 19-33 are rejected.


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (703) 308-8528. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 4:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh, can be reached on (703) 305-9648. The fax phone number for this group is (703) 305-7201.

Art Unit: 2155

A shortened statutory period for reply is set to expire THREE months from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned (35 U.S.C. Sect. 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(A).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305 -9600.


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Khanh Dinh
Patent Examiner
Art Unit 2155
11/27/2001